

HOUSE COMMITTEE ON RULES, ELECTIONS, AND PUBLIC AFFAIRS

May 27, 1999 Hearing Room D

2:30 P.M. Tapes 70 - 71

MEMBERS PRESENT: Rep. Mark Simmons, Chair

Rep. Richard Devlin, Vice-Chair

Rep. Bruce Starr, Vice-Chair

Rep. Jason Atkinson

Rep. Chris Beck

Rep. Roger Beyer

Rep. Randall Edwards

Rep. Kevin Mannix

Rep. Kitty Piercy

Rep. Jim Welsh

Rep. Max Williams

MEMBER EXCUSED: Rep. Dan Gardner

STAFF PRESENT: Cletus B. Moore, Jr., Administrator

Brad Daniels, Administrative Support

MEASURE/ISSUES HEARD: HB 3333 Public Hearing and Work Session

HB 3628 Public Hearing

SB 606A Public Hearing

HB 2648 Public Hearing and Work Session

TAPE/#	Speaker	Comments
TAPE 70, A		
006	Chair Simmons	Opens the meeting at 5:30 p.m. Opens the public hearing on HB 3333.
<u>HB 3333 PUBLIC HEARING</u>		
010	Cletus Moore	Committee Administrator. Explains HB 3333. Introduces the ñ2 amendments (EXHIBIT A).
022	Larry Harvey	Acknowledges that, rather than seeking implementation of a board, they are looking to build consensus through a study. Mentions the opposition of the Board of Architectural Examiners (EXHIBIT B).
049	Rep. Beyer	Supports the bill and the ñ2 amendments.
056	Chair Simmons	Asks about the fiscal impact of the bill.
057	Harvey	Replies that the fiscal impact would be minimal. Adds that the ñ2 amendments stipulate a cost of no more than \$10,000.
062	Rep. Williams	Asks about the opposition of the Board of Architectural Examiners.
067	Rep. Beyer	Replies that the Board of Architectural Examiners feels it is unnecessary to license interior designers.
074	Harvey	Notes the confusion surrounding the activities and education of interior designers. Stresses the difference between interior designers and interior decorators and the focus of the bill on interior design.
108	Chair Simmons	Closes the public hearing on HB 3333. Opens the public hearing on HB 3628.
<u>HB 3628 PUBLIC HEARING</u>		
118	Moore	Explains HB 3628. Introduces the ñ1 and ñ2 amendments (EXHIBITS C & D).
126	Rep. Juley Gianella	Explains the genesis of the bill and the lack of a law in Oregon to bar agents from contacting student athletes.
139	Tim Lowry	Legislative Assistant to Rep. Gianella. Discusses the regulations governing

		student athletes and their contacts with agents. Notes the punishments doled out to students and programs, but the lack of a punishments imposed on unscrupulous agents. Explains the ñ1 amendments, the proposed permitting process and the penalties imposed on agents (EXHIBIT E).
193	Lowry	Underscores the money agents will make from representing athletes and the minor fineís lack of deterrent effect. Describes the effects of the ñ2 amendments, which provide for two-sport athletes.
227	Rep. Beyer	Asks if the bill applies to people who live out of state.
230	Lowry	Replies yes.
232	Rep. Beyer	Asks about athletes who have a family member representing them.
239	Lowry	Replies that parents were excluded from the restrictions of the bill.
245	Rep. Starr	Asks if the Secretary of State was contacted concerning the permit program.
247	Lowry	Replies no.
249	Rep. Starr	Asks if the Secretary of State offer similar permits in other areas.
251	Lowry	Expresses uncertainty.
258	Chair Simmons	Notes the support of Kirk Bailey and Michael Beachley from the University of Oregon and Oregon State University respectively.
267	Rep. Starr	Expresses interest in researching the Secretary of Stateís role.
283	Chair Simmons	Closes the public hearing on HB 3628. Opens the public hearing on SB 606A.
<u>SB 606A PUBLIC HEARING</u>		
285	Moore	Explains SB 606A.
295	Tom Barros	Oregon Podiatric Medical Association (OPMA). Explains the two elements of SB 606A: clarification of podiatristsí scope of practice and empowerment of the Board of Medical Examiners to determine what qualifications a podiatrist must possess to perform ankle surgery (EXHIBIT F)
327	Dr. Gerald Peterson	OPMA. Supports SB 606A. Notes the lack of clarity in the current definitions of

		foot and ankle. Describes the education requirements for podiatrists. Addresses criticism about dangers to public safety by citing the number of states with similar laws. Underlines the training stipulations that will be fulfilled (EXHIBIT G).
376	Rep. Edwards	Asks if there are variations in the laws of other states.
379	Peterson	Replies that the provisions vary slightly from state to state.
392	Chair Simmons	Asks if compromise language is being developed.
396	Barros	Replies that the current version of the bill and amendments represents the compromise.
402	Chair Simmons	Asks if the bill is ready.
407	Barros	Replies that OPMA and the Board of Medical Examiners have agreed to the bill, but the orthopedists probably have not.
416	Chair Simmons	Closes the public hearing on SB 606A. Opens a work session on HB 3333.
<u>HB 3333 WORK SESSION</u>		
420	Rep. Beyer	MOTION: Moves to ADOPT HB 3333-2 amendments dated 05/18/99.
		VOTE: 7-0 EXCUSED: 5 - Devlin, Gardner, Mannix, Piercy, Welsh
	Chair Simmons	Hearing no objection, declares the motion CARRIED.
422	Rep. Starr	MOTION: Moves HB 3333 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 7-0 EXCUSED: 5 - Devlin, Gardner, Mannix, Piercy, Welsh

	Chair Simmons	Hearing no objection, declares the motion CARRIED .
430	Chair Simmons	Closes the work session on HB 3333. Recesses the meeting. Reopens the public hearing on SB 606A.
435	Mary Alice Ford	Describes her past legislative experience with the health care issue.
TAPE 71, A		
015	Ford	Stresses the difficulty of the health care issue and the need for understanding the duties of practitioners. Describes her personal experience with a foot injury and the problem involving orthopedists and podiatrists.
066	Ford	Notes the successful conclusion to her experience based on the podiatrist's treatment. Underscores that the public good resides in allowing competition and stopping turf wars over this issue. Denies that the ankle is either part of the foot or the leg. Discusses a podiatrist who specialized in treating the ankle and was unable to practice in Oregon.
110	Ford	Describes the experience of another podiatrist who is barred from practicing.
120	Peterson	States that podiatrists have already been treating the ankle non-surgically. Clarifies that the issue of SB 606A is the surgical treatment of the ankle, not the knee or the leg.
128	Barros	Introduces a letter to Rep. Dennis Luke from Patty Milne (EXHIBIT H).
135	Rep. Beck	Asks about the discretion of the Board of Medical Examiners.
140	Barros	Replies that the Board oversees podiatrists and medical doctors.
144	Rep. Beck	Cites section 4 of the amendments. Asks what discretion the Board will have in determining podiatrists' qualifications.
152	Barros	Replies that they would have complete discretion to write the appropriate rules.
162	Rep. Beck	Asks if the Board would be able to maintain the status quo based on this authority, or if the bill requires changes.
171	Barros	Replies that the Board could write the restrictions so rigidly to effectively bar all podiatrists from treating the ankle.

178	Rep. Williams	Cites sections 2 and 3 of the bill. Asks if podiatrists can treat the ankle non-surgically.
191	Peterson	Replies that podiatrists have been treating minor ankle problems, but have been barred from treating the ankle surgically. Adds that the bill seeks to address this controversy.
205	Rep. Williams	Cites language on page 2. Asks if this language is needed to clarify section 4.
220	Barros	Responds that the language on page 2 clarifies the scope of practice while providing the Board of Medical Examiners some parameters to work with in their rule-making process.
228	Rep. Williams	Asks if the definition contained in the bill expands the current scope of a podiatrist's practice.
235	Peterson	Replies no.
264	Chair Simmons	Recesses the meeting. Reopens the public hearing on SB 606A
<u>SB 606A PUBLIC HEARING</u>		
270	Nan Heim	Oregon Association of Orthopedists. Discusses the two issues of the bill: 1) ankle surgery by podiatrists and 2) non-surgical care of the ankle. Indicates that the language on page 2 represents their major concern with the bill (EXHIBIT I)
319	John Tongue M.D.	Orthopedist. Opposes SB 606A. Notes that podiatrists have no experience treating significant problems with the foot and ankle. Reviews the reasons that podiatrists do not belong in emergency rooms. States that the bill as written may allow podiatrists to operate on the knee. Indicates that the foot is not the ankle and podiatrists are not trained to operate on the ankle.
364	Dr. Tongue	Notes that there is no medical necessity for the bill. Discusses the reason for ankle injuries, seniors as the common sufferers of injury and the difficulty of treating ankle injuries. Notes that proper ankle treatment requires experience. Opposes the bill because it expands the scope of practice to less qualified practitioners.
TAPE 70, B		
005	Scott Gallant	Oregon Medical Association (OMA). Indicates that the bill could be narrowed further to accomplish the stated goals. Cites page 2 of the bill. Underlines the problems that may arise from the restrictions on surgical procedures. Suggests the deletion of section 4 (1) on page 3.

054	Gallant	Explains the reason for this suggestion. Notes that much of the bill's language is extraneous.
079	Rep. Williams	Cites page 2, section 2. Asks if Dr. Tongue agrees with the definition of ankle.
089	Dr. Tongue	Replies yes.
090	Rep. Williams	Asks if the language of lines 14-15 expands the podiatrists' scope of practice.
098	Dr. Tongue	Replies yes.
100	Rep. Williams	Asks if it is possible to define the ankle in a way that excludes the leg.
109	Dr. Tongue	Replies that he opposes podiatrists treating the ankle at all.
114	Rep. Piercy	Asks about the laws of other states and possible problems.
122	Dr. Tongue	States that the data does not exist.
128	Rep. Piercy	Asks if other states have experienced problems with expanding the scope of practice of podiatrists.
135	Heim	Replies that the data has not been collected.
139	Rep. Williams	Asks if Oregon is in the minority on limiting podiatrists' scope of practice to the foot only.
147	Dr. Tongue	Underlines that the bill should be judged on its merits and Oregon should not be concerned about being in the minority on this issue.
154	Hein	Notes that the list of EXHIBIT I is designed to show that some states have limited podiatrists' treatment of the ankle.
161	Rep. Beck	Asks if the Board of Medical Examiners could be allowed to deal with and clarify the disputed definitions.
174	Dr. Tongue	Replies that the Board would be required to define the present statute. Questions whether or not treatment of the ankle by podiatrists is a violation of the existing statute.
190	Rep. Edwards	Asks what orthopedists are licensed to treat.

194	Dr. Tongue	Replies that orthopedists are entitled to treat the entire musculo-skeletal system.
202	Rep. Edwards	Asks if podiatry is a select discipline.
206	Dr. Tongue	States that the orthopedic residency is the most sought after residency in the nation. Reviews his education and experience.
224	Rep. Edwards	Asks if the orthopedists in Oregon specialize in particular disciplines.
229	Dr. Tongue	Replies yes.
235	Rep. Edwards	Asks about the difficulty of obtaining treatment in some parts of the state.
242	Dr. Tongue	Replies that there is no access difficulty.
245	Rep. Devlin	Refers to two elements: the definition controversy and the certification of podiatry. Questions why legislators should be judging scope of practice issues. Expresses frustration that the interested groups are not compromising.
291	Dr. Tongue	Replies that the scope of practice debate will return because of the "turf" issue. Reiterates his objection to podiatrists' treatment of the ankle.
316	Rep. Devlin	Reiterates his frustration with the "ping pong" nature of the bill.
320	Dr. Tongue	Relates that the expansion of scope of practice is difficult to reverse.
330	Gallant	Clarifies that Board of Medical Examiners is neutral on the bill.
340	Rep. Williams	Asks if podiatrists are not qualified to treat the ankle in any way, for example casting a fracture.
350	Dr. Tongue	Replies that podiatrists do not have the training of an orthopedic surgeon.
352	Rep. Williams	Asks if other doctors besides orthopedic surgeons cast fractures.
355	Dr. Tongue	Replies yes.
357	Rep. Williams	Asks if physician assistants are allowed to cast fractures.
359	Dr. Tongue	Replies that they do not in his practice, but if they did, it would be under the direct supervision of a medical doctor.

362	Rep. Williams	Asks about the definition of direct supervision.
368	Dr. Tongue	Replies that he has put on every cast for every patient in his care.
379	Chair Simmons	Asks if certified nurse practitioners set simple fractures.
385	Dr. Tongue	Responds that he is not aware of this practice.
400	Rep. Devlin	Asks if the concern is surgery of the ankle.
407	Dr. Tongue	Replies no. Adds that the majority of injuries will not be treated surgically.
411	Rep. Devlin	Asks if a podiatrist should not set an ankle fracture.
420	Dr. Tongue	Replies yes.
425	Chair Simmons	Asks for review of the possible conceptual amendments.
428	Gallant	States that he would delete the new language on page 2, lines 14-15 and lines 34-35.
TAPE 71, B		
014	Rep. Beyer	Asks if the word "ankle" will remain on line 14.
015	Gallant	Replies yes. Adds that the definition of ankle would be deleted. Suggests the deletion of section 4, lines 1-2 and the entire subsection (1). Explains that the amendments would specifically authorize the Board of Medical Examiners to determine the specific qualifications for the podiatric surgeons.
032	Rep. Beyer	Asks to hear from the podiatrists.
043	Barros	Expresses concern about allowing last minute changes.
053	Rep. Piercy	Expresses more comfort with allowing additional time to work on a compromise.
056	Rep. Welsh	Cites EXHIBIT H . States that OMA's position appears to disavow the possibility of a compromise.
068	Peterson	Indicates that no report or suggestions were offered by OMA. Reiterates the support of the Board of Medical Examiners.

084	Chair Simmons	Closes the public hearing on SB 606A. Opens the work session on HB 2648.
<u>HB 2648 WORK SESSION</u>		
095	Rep. Williams	Introduces and explains the ñ6 amendments, which delete section 4 of the bill (EXHIBIT J).
114	Rep. Williams	MOTION: Moves to ADOPT HB 2628-6 amendments dated 05/26/99.
121	Rep. Beyer	Asks if other amendments have been adopted.
122	Moore	Replies that the ñ2, -3 and ñ5 amendments have been adopted.
128	Rep. Williams	Explains the ñ6 amendments. Notes that the amendments reserve the current definition of lobbying.
160	Rep. Piercy	Questions the amount of referrals sent to the voters.
165	Chair Simmons	Acknowledges the concern.
170	Rep. Beck	Expresses interest in the deletion of section 5.
175	Rep. Devlin	Opposes the ñ6 amendments.
182	Rep. Williams	States that the defeat of the ñ6 amendments will dramatically affect the definition of lobbying.
197		VOTE: 10-1 AYE: 10 - Atkinson, Beck, Beyer, Edwards, Mannix, Piercy, Starr, Welsh, Williams, Simmons NAY: 1 - Devlin EXCUSED: 1 - Gardner
	Chair Simmons	The motion CARRIES.
205	Rep. Beck	Suggests the deletion of section 5 of the bill. Expresses concern about the

		number of referrals to the voters.
214	Rep. Beyer	Asks about the Governor's view of the bill.
219	Rep. Beck	Expresses uncertainty. Opposes the bill.
228	Rep. Beyer	MOTION: Moves HB 2648 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 7-4 AYE: 7 - Atkinson, Beyer, Mannix, Starr, Welsh, Williams, Simmons NAY: 4 - Beck, Devlin, Edwards, Piercy EXCUSED: 1 - Gardner
	Chair Simmons	The motion CARRIES. CHAIR SIMMONS will lead discussion on the floor.
260	Chair Simmons	Adjourns the meeting at 8:30 p.m.

Submitted By, Reviewed By,

Brad Daniels, Cletus B. Moore, Jr.,
Administrative Support Administrator

EXHIBIT SUMMARY

A ñHB 3333, -2 amendments, staff, 2 pp.

B ñHB 3333, written testimony, Larry Harvey, 15 pp.

C ñHB 3628, -1 amendments, staff, 6 pp.

D ñHB 3628, -2 amendments, staff, 1 p.

E ñHB 3628, written testimony, Tim Lowry, 6 pp.

F ñSB 606A, written testimony, Tom Barros, 13 pp.

G ñSB 606A, written testimony, Dr. Gerald Peterson, 2 pp.

H ñSB 606A, letter, Tom Barros, 2 pp.

I ñSB 606A, written testimony, Nan Heim, 3 pp.

J ñHB 2648, -6 amendments, staff, 1 p.